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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/896,790 | 06/28/2001 | Joseph Dara-Abrams | 080398.P444 | 8907 |

7590 11/28/2003

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Seventh Floor
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Los Angeles, CA 90025-1026

EXAMINER

WACHSMAN, HAL D

| ART UNIT | PAPER NUMBER |
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2857

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/896,790

Applicant(s)

DARA-ABRAMS ET AL.

Examiner

Hal D Wachsmen

Art Unit

.2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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| EXAMINER |
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| ART UNIT | PAPER |
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12

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Hal D Wachsman
Primary Examiner
Art Unit: 2857

1. Claims 1-32 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, line 8, cites "each of the plurality of consumer electronic devices" however it appears that what was actually intended here is "each consumer electronic device of the plurality of consumer electronic devices". This same type of problem also occurs in claim 11, lines 5-6, claim 23, line 8, claim 24, line 8, claim 25, lines 5-6, claim 26, line 6, claim 30, line 3. The preamble of claim 27 cites "A system comprising:" but a system of what or for what is being referred to here ? This same type of problem also occurs in the preamble of claim 30. Claim 27, lines 5-6, cite "the at least one consumer electronic device" however it appears that the antecedent basis here is "at least one testing consumer electronic device". The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, lines 5-8, cite "providing a diagnostic

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11-12-03
procedure to control diagnosis of the one or more potentially faulty consumer electronic devices by at least one testing consumer electronic device within a plurality of consumer electronic devices that includes the one or more potentially faulty consumer electronic devices..." which is confusing because if the testing consumer electronic device is within the plurality of consumer electronic devices which in turn includes the one or more potentially faulty consumer electronic devices, that would mean the testing consumer electronic device itself can be one or the "one or more potentially faulty consumer electronic devices" which would mean a faulty testing consumer electronic device is being used to test another faulty electronic device in which case even if the faulty testing consumer electronic device was operational, any results of testing obtained with such a testing device could not be depended on to be true diagnostic readings of the consumer electronic device being tested. This same type of problem also occurs in claims 11 and 23-27.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertsch (5,938,757).

As per claim 30, Bertsch (see at least abstract) discloses "a plurality of home consumer electronic devices". Bertsch (Abstract, col. 2 lines 46-50, 61-63, col. 5 lines 3-8, col. 6 lines 20-31, col. 10 lines 58-65) discloses "wherein each of the plurality of home consumer electronic devices...to locally diagnose a fault...within the plurality of home consumer electronic devices".

As per claim 31, Bertsch (Abstract, col. 1 lines 56-62) disclose the feature of this claim.

As per claim 32, Bertsch (Abstract, col. 2 lines 46-50, 61-63, col. 5 lines 3-8, col. 6 lines 20-31, col. 10 lines 58-65) discloses the feature of this claim.

6. The following references are cited as being art of additional general interest: Edens et al. which disclose a network in the home with digital media streams, Natalini et al. which disclose a system for monitoring and servicing appliances, Humpleman et al. which disclose command and control between consumer electronics devices in a network and Primm et al. which disclose a peer appliance that can detect failure in other network-enabled appliances when an anticipated ping is not received.

7. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP


§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
November 22, 2003